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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,763	07/01/2003	William T. Wilkinson	WIL-115US	2147

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RATNERPRESTIA
P.O. BOX 1596
WILMINGTON, DE 19899

EXAMINER

RICHMAN, GLENN E

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 07/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/611,763

Applicant(s)

WILKINSON ET AL.

Examiner

Glenn Richman

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-183 is/are pending in the application.
- 4a) Of the above claim(s) See Continuation Sheet is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,28-33,41,42,45,46,55,60-64,68,69,90,111 and 134 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/28/03, 8/12/04, 1/14/05, 12/6/04
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Continuation of Disposition of Claims: Claims withdrawn from consideration are 2-27,34-40,43,44,47-54,56-59,65-67,70-89,91-110,112-133 and 135-183.

Continuation of Informatio Disclosure Statements 12/06/04, 1/10/05.

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of claims 1, 28-33, 41,42, 45,46,55,60-64,68,69,90,111,134 in the reply filed on 3/15/06 is acknowledged. The traversal is on the ground(s) that the species requirement was not specifically detailed. This is not found persuasive because the inventions are directed to patentably distinct inventions.

The elected embodiment of figures 1-5a, 5b,, which reading on the corresponding elected claims, are properly grouped for examination. The remaining embodiments are patently distinct, for example, figure 5c, a trampoline device, figure 5k, a bicycle; figures 6, directed to a stand alone exercise device.

Furthermore the examiner agrees with the grouping of the elected claims by the applicant directed to a lower and upper body exercise machine.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 28-32, 41, 42, 45, 55, 60, 69, 90, 111, 134 are rejected under 35

U.S.C. 102(e) as being anticipated by Schmidt (6,302,829).

Schmidt discloses a lower body exercise machine (fig. 1); and at least one upper body exercise module attached to the lower body exercise machine (1a), each upper body exercise module comprising an elongated connector having first and second ends (4a); a user engagement connected to the elongated connector first end for engaging or being engaged by a body appendage of a user (1a); and a resistance mechanism for resisting a tensile force applied to the first end of the elongated connector (col. 13, lines 58 - et seq.); each upper body exercise module adapted to provide resistance to a full natural forward arm swing of at least one arm of the user (fig. 1); each upper body exercise module attached to the lower body exercise machine via a mounting device comprising a mounting arm adapted to position the upper body exercise module behind and to one side of the user when the user is in a normal use position on the lower body exercise machine, the mounting arm positioned to avoid interference with an egress path directly behind the user in the normal use position on the lower body exercise machine (2a, col. 7, lines 21 – et seq.).

As for claims 28-32, Schmidt discloses the upper body exercise machine is detachable from the mounting arm (5), the apparatus further comprising a forward mounting device attached to a forward portion of the lower body exercise machine and on which the upper body exercise module is adapted to be mounted to provide resistance to a backward arm swing of the user (1a); the lower body exercise machine

is adapted to allow a full, natural arm swing of the user without the user's arm hitting any portion of the lower body exercise machine or attachment to the lower body exercise machine (fig. 1), wherein the resistance mechanism is not powered exclusively by elasticity of the elongated connector (col. 7, lines 21 – et seq.); each upper body exercise module adapted to provide resistance to a full natural forward or backward arm swing of at least one arm of the user (fig. 1); wherein the lower body exercise machine comprises a machine selected from a group consisting of: air walkers/gliders, upright and recumbent bicycle machines, torso- twisting disks, cross-trainers, steppers, elliptical exercise machines, cross-country and downhill ski machines, trampolines, squat machines, rowing machines, stretching machines, and abdominal machines (fig. 1); a spool connected to the elongated connector second end and on which the elongated connector is adapted to be wound (72a); the resistance mechanism is adapted to provide frictional resistance to unwinding of the spool (col. 13, lines 58 – et seq.); and a retraction mechanism for automatically rewinding the spool (col. 13, lines 45-57); each upper body exercise module adapted to provide resistance to a full natural forward arm swing of at least one arm of the user (col. 7, lines 21 – et seq.), the upper body exercise module resistance mechanism comprises a braking cylinder and a band brake for frictionally engaging the braking cylinder (col. 16, lines 21 – et seq.).

As for claims 41, 42, 45, 55, 60, Schmidt further discloses a support structure for preventing the user from being pulled off of the lower body exercise machine by the resistance of the upper body exercise module (50); a hand grip connected to the

elongated connector first end for being gripped by the user with an open or loose grip
(1a);

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt in view of Henry.

Schmidt does not disclose the upper body exercise module resistance mechanism comprises a disk and a pair of calipers for frictionally engaging the disk.

Henry discloses an upper body exercise module resistance mechanism comprises a disk and a pair of calipers for frictionally engaging the disk (60, 62).

It would have been obvious to use Henry's disk and caliper arrangement with Schmidt's exercise device, as it is well known as taught by Henry, to use a disk and a pair of calipers, for providing a frictional resistance means to an exerciser.

Claims 46, 62-64, 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt in view of Lee et al (6,123,649).

Schmidt does not disclose the mounting interface comprises a mounting arm adapted to position the upper body exercise module behind and to one side of the user when the user is in a normal use position on the lower body exercise machine.

Lee et al disclose the mounting interface comprises a mounting arm adapted to position the upper body exercise module behind and to one side of the user when the user is in a normal use position on the lower body exercise machine (fig. 1).

It would have been obvious to use Lee et al's mounting arrangement with Schmidt's exercise device, as it is well known as taught by Lee et al, to position the mounting device being a user, for providing the resistance to a user.

Lee et al further disclose the plurality of locations for attaching the one or more upper body exercise modules or extensions include locations where the one or more upper body exercise modules may be positioned for exercising an arm or a leg of the user (fig. 1), the plurality of locations for attaching the one or more upper body exercise modules or extensions include locations where the one or more upper body exercise modules may be positioned behind or in front of the user (fig. 1), at least one of the plurality of locations for attaching the one or more upper body exercise modules or extensions includes a rearward location where at least one upper body exercise module may be positioned behind the user to provide resistance to a full, natural forward arm swing of the user (fig. 1).

Claim 61 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt in view of Kaiser.

Schmidt does not specifically detail a clip for attaching and detaching a plurality of interchangeable user engagements.

Kaiser discloses a clip for attaching and detaching a plurality of interchangeable user engagements (claim 14).

It would have been obvious to use Kaiser's clip, with Schmidt's device, as it is well known in the art, as taught by Kaiser, to use a clip for interchanging user engagements, for exercising different muscle groups.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Glenn Richman whose telephone number is 571-272-4981. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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A handwritten signature in black ink, appearing to read 'Glenn Richman', written in a cursive style.

Glenn Richman
Primary Examiner
Art Unit 3764